

State of California
California Occupational Safety and Health Appeals Board
Minutes of the Public Meeting & Closed Session
Held on May 20, 2026
Sacramento, California
Zoom Platform

Present:

Ed Lowry, Public Member, Chairperson
Judith Freyman, Management Member
Marvin Kropke, Labor Member
Scott Pease, Executive Officer
Kerry Lewis, Presiding Administrative Law Judge
Sam E. Lucas, Presiding Administrative Law Judge
Christopher Jessup, Administrative Law Judge
Jennie Culjat, Administrative Law Judge
Aaron Jackson, Chief Counsel
Jeffrey Mojcher, Chief Counsel Emeritus
Karen Halbo, Staff Counsel
Brian Nichols, Staff Counsel
Amy N. Lara, Supervisor
Maria Rios, Legal Analyst
Beth Reiken, Executive Secretary
Timothy Prochnow, Office Technician
Dana Deane, Staff Counsel, DOSH
David Wiseman, Staff Counsel, Cal Fire
Michelle Henson, Ogletree Deakins
Jordan Uter, Worksafe
Matt Smylie, Ford Construction Company, Inc.
Mona Fran

Notice of remote attendance:

As required by Government Code Section 11123.5, subdivision (d), notice is hereby given that Board member Marvin P. Kropke will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (2), and Board member Judith Freyman will be participating remotely pursuant to Government Code Section 11123.2, subdivision (j), paragraph (1).

Request for remote attendance:

Member Marvin Kropke made a motion requesting to attend the June 3rd and June 17th Board meetings remotely pursuant to Government Code section 11123.2, subdivision (j)(2)(A).
This motion was seconded by Ed Lowry.
The Board voted to approve the remote attendance request 3-0.

Minutes of May 7, 2026, Meeting:

(Approve or amend minutes of previous Board meeting.)

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Action: The Board voted to approve the minutes for the May 7, 2026, meeting.
This was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.

New Business:

(The Appeals Board hears and discusses new reports presented by staff.)

Action: No report.

Old Business:

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. Discussion of comments received at the Stakeholder's Roundtable.

Action: Notes from the Stakeholder's Roundtable discussion are still being reviewed by the Board.

Legislation:

(Review and discuss current legislation which may affect the appeals Board.)

Action: Karen Halbo reported there are ongoing hearings, however no movement on AB-1046 and AB- 2137. By midnight on June 15th, the State's Budget bill must be passed.

Chairperson's Report:

(Hear report from the Chairperson on activities and issues affecting the Appeals Board.)

Action: Ed Lowry and Scott Pease met with Fed OSHA and discussed OSHAB's budget and workload.

Board Members' Reports:

(Hear reports from Board members on activities and issues affecting the Appeals Board.)

Action: Judith Freyman asked clarifying questions regarding the bill introduced to transfer BOI responsibilities to the DA's (AB-2321).

Executive Officer's Report:

(Report regarding administrative matters.)

Action: Scott Pease reported Amy N. Lara has been accepted as OSHAB's Supervisor and started today. The new Attorney candidate will start mid-June. Scott is reviewing possible options on moving forward with the Analyst position after

receiving 670 applications with HR. Interviews are being coordinated for the Administrative Law Judge (ALJ) position.

Staff Reports:

(Reports from the Supervising ALJ and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

1. Discuss and may take action on proposals for new regulations or proposals for modifications to, or repeal of, existing regulations. In addition, discuss whether any concerns exist with existing regulations.

Action: Presiding Judges Kerry Lewis and Sam E. Lucas have coordinated two Zoom meetings to be held on June 26th at 11:00 a.m. July 8th at 2:00 p.m. with Stakeholders to discuss what to expect during the appeal process.

2. Ligation Update

Action: Aaron Jackson provided the following updates:
In Waterproof and Roofing Solutions, Inc. (1690885), the Board's opposition brief is due next week.
Drill Tech Drilling & Shoring, Inc. (1420923) and The Geo Group (1609228) cases have hearings next Friday.
Employbridge Holdings Company (1499137) hearing date was changed to September 16, 2026.

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

Public Comment:

(Public comments will be entertained during discussion of each agenda item of the open meeting.)

Action: The Board heard comments from the public expressing their appreciation to the Presiding Administrative Law Judges' for hosting upcoming classes.

Decisions of Administrative Law Judges:

(Written decision issued by an Administrative Law Judge. The Decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the Decision. The board members review the Decision and decide if they will reconsider the ALJ Decision on their own motion.)

1552002 Tesla, Inc.

Action: The Board discussed this matter.

Petitions for Reconsideration:

(The Division of Occupational Safety & Health and the Employer each have the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

- 1805515 D-Line Constructors, Inc.
Action: The Board discussed this matter.
- 1853969 Direct Staffing LLC
Action: The Board voted to issue a Denial of Petition for Reconsideration.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote was 3-0.
- 1547223 Perry C. Thomas Construction, Inc.
Action: The Board voted to issue an Order Taking Petition for Reconsideration Under Submission.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0.
- 1864915 Spalding Community Services District
Action: The Board voted to issue a Denial of Petition for Reconsideration.
It was moved by Ed Lowry.
It was seconded by Marvin Kropke.
The vote was 3-0.
- 1859532 Weaverville Gas
Action: The Board voted to issue a Denial of Petition for Reconsideration.
It was moved by Judith Freyman.
It was seconded by Marvin Kropke.
The vote was 3-0
- 1563307 XL Concrete Masonry, LLC
Action: The Board voted to issue an Order Taking Petition for Reconsideration Under Submission.
It was moved by Marvin Kropke.
It was seconded by Judith Freyman.
The vote is 3-0

Orders Dismissing Appeal:

- 1637880 Amazon Plumbing & Repairs, Inc.

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- Action: The Board discussed this matter.
- 1833643 Duran Contracting, Inc.
Action: The Board discussed this matter.
- 1607878 Gauthier Enterprises, Inc.
Action: The Board discussed this matter.
- 1777654 Nick Barbieri Trucking, LLC
Action: The Board discussed this matter.

Orders Denying Leave to File Late Appeal:

- 1821999 QSR West, Inc.
Action: The Board discussed this matter.

Matters Pending Reconsideration:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters, or amends the Order or Decision being reconsidered.)

The following list is intended to inform stakeholders and members of the public of what the Board believes is the issue of most interest to the general public presented in each of the following matters. The issues are listed to assist those interested in research or public information, and not litigation, and are not necessarily or exclusively the only issue or issues presented in each matter. The issues identified are not positions of the Board. Further, the Board may add and decide issues not included in the list or decide the matter on other grounds, under authority of Labor Code sections 6620 through 6623.

- 1296297 Alliance Diversified Enterprises, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 1509, subdivision (b) [failure to adopt code of safe practices]; section 1511, subdivision (b) [failure to survey the worksite]; and (3) section 1541.1 [failure to provide adequate protective system in excavation], and whether the Division established the repeat classification for one of the citations.
- 1824578 Allied Express Logistics, Inc.
- 1573582 CA Department of Corrections & Rehab
Whether several of the ALJ's findings of fact are supported by the record, and whether those findings support the decision.
- 1360156 CA Forest and Fire Protection

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Did the Decision of the Administrative Law Judge properly affirm a violation for failure to wear thermal protection for ears and neck during wildland fire fighting?

- 1446266 Creative Packaging
Whether the employer violated hazard energy control regulations as alleged.
- 1545777 Entact, LLC
Did the Decision of the Administrative Law Judge properly affirm violations for failure to ensure that employees operated industrial trucks in a safe manner by maintaining a safe distance from other vehicles, and for failure to ensure that employees traveled with the load trailing when the load being carried obstructed forward view?
- 1644980 Herman Weissker Power, Inc.
Was the ALJ correct in granting employer's appeal of an alleged violation of electrical safety order section 2943, subdivision (e)?
- 1488312 Indiana Finish Line, Inc.
Whether the cited employer established procedures adequate to protect employees from COVID-19.
- 1518442 JT2, Inc.
How should the term "issue" or "issued" as used in Labor Code section 6317, subdivision (e)(1) be interpreted. How should the notice requirements of Labor Code 6319 be interpreted?
- 1371294 KPRS Construction Services, Inc.
Whether the employer violated section 1632 as alleged? Whether the ALJ's ruling that the Division did not meet its burden of proof regarding the employer's IIPP was correct.
- 1692164 L & S Framing, Inc.
- 1642084 Los Angeles County Probation Department
- 1652861 Los Angeles County Probation Department
Did the evidence support the finding that it was appropriate for Employer not to report an incident causing a serious injury where a guard received facial cuts that left him with visible scarring? Did the evidence support the finding that Employer implemented its established IIPP procedures?
- 1529748 Los Angeles Department of Water & Power

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Did the Division cite the correct regulation section when it cited Employer for violating 8 CCR 2940.14, and was it established that under the stipulated facts that Employer violated that section?

- 1469097 Lowe's Home Centers, LLC
Whether there was exposure to foot injuries from falling objects, crushing, or penetrating actions. If so, whether the employer required appropriate foot protection.
- 1549611 Metcalf, Inc.
Whether Employer committed the violations alleged in the citations, including alleged violations of section 3203, subdivision (a)(6) [failure to correct an unsafe condition]; section 1621, subdivision (b) [failure to provide toeboards on scaffolding]; and (3) section 3276, subdivision (e)(15)(B) [safe use of ladders], and whether Employer established its affirmative defense.
- 1235941 McCarthy Building Companies, Inc.
- 1458699 Primula Mozzarella LLC.
Whether the Employer's petition for reconsideration was timely.
- 1355061 Republic Electric West, Inc.
Whether fall protection requirements apply to the work. Whether the IEAD was established. Whether penalties were duplicative. Whether the Employer exercised reasonable diligence. Whether it was an error to reduce the classification of the violations and reduce the penalties.
- 1475491 Sutter Bay Hospitals dba Mills-Peninsula Medical Center
Was the ALJ correct in granting Employer's appeals of the citations alleging violations of section 342, subdivision (a) and section 5199, subdivision (i)
- 1703764 The Don Chapin Co., Inc.
Did the Decision of the Administrative Law Judge properly find that employees were exposed to the hazard of a failure to provide a swinging gate or equivalent protection at the entrance to a ladder opening on a platform?
- 1454931 Tesla Inc.
Whether the ALJ properly affirmed the citations and, if so, whether Employer committed a serious accident-related violation of section 3328, subdivision (a).

Action: The Board discussed this matter.

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1486176 Tutor Perini Corporation and O&G Industries, Inc.
Whether the Employer committed a serious accident-related violation of section 3328, subdivisions (a).

1660543 West Coast Drywall & Paint

Matters Pending Litigation:

(If the Division of Occupational Safety & Health or the Employer disagrees with a Decision after Reconsideration or a Denial of a Petition for Reconsideration, either one or both parties may apply to the California Superior Court for a Writ of Mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

Superior Court:

1. USA Waste of California, Inc., 34-2022-80003841 (1384029)
2. Arana Residential and Commercial Painting, Inc. (1568252)
3. Western Oilfields Supply Company, 24WM000169 (1498595)
4. The Geo Group, Inc., 25WM000023 (1609228)
5. Uber Technologies Inc (1594663)
6. Employbridge Holding Company, 25CHCP00143 (1499137)
7. Sun Belt Rentals, 25CU041526C (1465119)
8. Drill Tech Drilling & Shoring, Inc. N25-1793 (1420923)
9. Metropolitan News Company, 25STCP04455 (1689021)
10. Los Angeles Police Department 25STCP05034 (1599318)
11. L & S Framing, Inc. (1692964)

Appellate Court:

1. General Dynamics NASSCO (1300984)
2. Waterproofing and Roofing Solutions, Inc. 24STCP03693 (1690885)

Other Items:

There are no Other Items.

Orders Of Administrative Law Judges:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the Order and decide if they will reconsider or remand the issued order.)

1843174	49'r Propane, Inc.
1831595	A Step Above Scaffold Co Inc
1624850	Americold Logistics, LLC
1834999	Anderson Pacific Engineering Construction, Inc.
1873112	Arts Roofing, LLC
1798824	Ben Castro Masonry, Inc.
1857542	Bristol Farms
1858921	Cabalen Hercules Inc.
1851307	California Resources Corporation
1706758	Cargill Meat Solutions Corporation
1858154	Cedar Valley Manufacturing, Inc.
1878107	Chaffin Harvesting
1828304	Chevron U.S.A. Inc.
1846783	ChrisCo Bits, Inc.
1692190	Circle M Contractors Inc
1855645	City of Poway
1862994	CMM Enterprises, Inc.
1625542	Cobuild, Inc.
1827483	Cortech West Staffing LLC AKA Cortech
1855181	Costco Wholesale
1855180	Crawford Bros., Inc.
1185893	D & D Construction Specialties, Inc.
1847850	Delsid, Inc.
1839395	Diamond Landscaping LLC
1813989	Dirtprep Solutions Equipment, LP
1754042	Diversified Restaurant Group
1839510	DSF Management Inc
1872989	Elk Creek Builders LLC
1843885	Faencal Tartaric Products, Inc.
1873125	Figas Construction
1684504	Food 4 Less Holdings inc.
1826827	Full Steam Staffing LLC
1746745	Grace Holmes, Inc,
1813522	Grain Craft, LLC
1867827	Hankins Group, Inc.
1831076	Heco-Pacific Manufacturing, Inc.
1728986	Hope Clinical
1667717	Imperial Irrigation District
1665444	Interstate Hotels, LLC
1739249	Invapharm, Inc.

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1824567	Izzuz Partners Inc.
1872489	J & A Solari, Inc.
1857301	J Reyes Construction LLC
1683526	Jasco Enterprise Inc
1866489	JRC Farming Services
1549261	Kiewit Infrastructure West Co.
1870325	Marine Group Boat Works, LLC
1818654	Marriott Welding, Inc.
1821086	Matt Construction Corporation
1843817	Mendoza Plastering Inc
1810169	MHA RDR LLC
1788503	Millie & Severson, Inc.
1759406	MJ Glass Hayward Inc
1662978	Nina Mia, Inc.
1842532	Olwin Landscape Design & Construction Inc.
1785143	Parkhouse Tire Service, Inc
1802701	Pirate California Holdings, LLC
1880469	PTRS Inc
1726774	Radford Studio Center LLC
1529779	Ralphs Grocery Co.
1783885	Ramco Enterprises, LP or Ramco Enterprises, L.P.
1872492	Red Clover Worker's Bridade, Inc.
1871184	Ridge Builders LLC
1860123	S-K Ranch Management, LLC
1683532	Securitas Security Services USA, Inc.
1779199	Siemens Mobility Inc.
1804176	Siemens Mobility, Inc., Rolling Stock
1808185	T.M. Cobb Company
1660769	Taylor Farms Retail, Inc.
1710855	Taylor Farms Retail, Inc.
1815994	The Best Demolition and Recycling Co.
1710774	The City of San Diego Public Utilities Department
1658976	The Martin- Brower Company, L.L.C.
1646569	Trademark Construction
1605763	Ultramar Inc.
1783871	Walmart Inc.
1856566	Westech Systems, LLC
1841512	Wine Country Cases, Inc.

Action: The Board discussed the Settlement Orders issued by the Administrative Law Judges.

Personnel:

(Issues regarding staff)

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The Closed Session adjourned at 10:56 a.m. and the Board returned to the Public Meeting. The Appeals Board incorporated, by reference, its actions in the Closed Session as indicated above. The Board meeting was adjourned at 10:57 a.m.